RECEIVED

NOV 2 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Petition for Waiver Filed by	)	CC Docket No. 96-45
	)	
Lincolnville Telephone Company	)	AAD 96-70
Tidewater Telecom, Inc.	)	
	)	
Concerning the Definition of "Study Area" Contained in the	)	
Part 36 Appendix-Glossary of the Commission's Rules	)	

To: Chief, Common Carrier Bureau

REQUEST FOR REMOVAL OF WAIVER CONDITION CONSISTENT WITH COMMISSION POLICY

Lincolnville Telephone Company, together with its affiliate, Tidewater Telecom, Inc. (collectively "Lincolnville") submits this request for the removal of the "cap" on the Universal Service Fund ("USF") cost allocation support payments established by the Commission's Order adopted January 31, 1997, with respect to Lincolnville's study area.[1] The Order authorized the transfer of local exchange facilities consisting of six exchanges serving 8,467 access lines into its existing study area. As a condition to the grant of study area waiver, the Order imposed a limitation or "cap" on USF disbursements to the Lincolnville study area of $549,442 per annum. Consistent with the overarching Commission policy conclusions now established by the Memorandum Opinion and Order on Reconsideration, released September 9, 1999,[2] Lincolnville

---

[1] Memorandum Opinion and Order, AAD 96-70, 12 FCC Rcd 1479 (1997) ("Order").

[2] Memorandum Opinion and Order on Reconsideration, AAD 93-93, 95-72, 95-30, 97-21, 97-23, 97-117, 98-44, 98-53, DA 99-1845, released September 9, 1999 ("Cap Removal Order").

No. of Copies rec'd 0+4
List ABCDE

requests that its individual USF cap be removed as of January 1, 2000.[3]

Lincolnville expects that many other similarly-situated companies will be seeking removal of their individual USF caps consistent with the Bureau's newly articulated policy conclusions. In order to avoid the administrative burden of repeatedly applying its new policy to a multitude of almost identical requests, Lincolnville respectfully suggests that the Commission simply clarify, on its own motion, its policy by lifting the 57 remaining USF caps.

In the absence of this clarification, Lincolnville respectfully requests expedited action in light of the consistency of this request with the recent policy conclusions and to accommodate the completion of the USF administration prior to January 1, 2000. In support thereof, Lincolnville submits the following:

I. Background

On July 31, 1994, GTE-Maine sold all of its stock to MTG, a group consisting of Lincolnville and five other companies. As a result, GTE-Maine was dissolved and all of its assets and liabilities were distributed to MTG. On June 18, 1996, Lincolnville, together with the other members of MTG, filed a joint petition for waiver of the frozen study area boundaries. On February 3, 1997, the FCC released its Order authorizing the GTE-Maine study area to be divided among the six companies. Lincolnville was authorized to transfer six exchanges serving 8,467 access lines into its existing study area subject to the condition that, absent explicit approval from the Bureau, the annual USF support provided to the study area would not exceed

[3] Although this Request references an effective date of January 1, 2000, Lincolnville does not waive its right to raise issues in the future with respect to the applicability of the Commission's policy or rules to prior periods beginning May 8, 1997.

the estimated post-upgrade amount of $549,442, specified in the joint petition.[4] The National Exchange Carrier Association ("NECA") was ordered not to distribute USF payments exceeding the limitation.

In the Order, the Bureau also acknowledged appropriately that

> it is likely that any new universal service rules will alter the method used to determine the distribution of USF support to high-cost areas, thereby changing the projected level of support to the petitioners' study areas. This, in turn, may require us to revisit these issues, and the related waiver conditions that we have established herein.[5]

Although Lincolnville was aware in 1994 that the facilities to be purchased were substandard, and that the Bureau would likely impose a limit on USF recovery, Lincolnville, nevertheless, fully expected that a rational network cost recovery application would be ultimately resolved consistent with the public interest.[6] Lincolnville believed that rational cost recovery would be possible by removal of the limit or the implementation of a new USF plan, under which the reasonable high costs would be addressed. Although the Lincolnville study area's 2000 USF receipts, based on data forwarded from the Universal Service Administrative Corporation ("USAC") to the Commission on October 1, 1999, will likely be less than the $549,442 cap imposed in the Order, grant of this request will allow Lincolnville to proceed in coming months and years with network upgrades with the understanding that the costs incurred

---

4 Order at ¶ 13.

5 Order at ¶ 17.

6 Lincolnville has deployed over 60 miles of fiber optic cable and invested approximately $5 million in its study area over the past three years. A new switch that will allow Lincolnville to deploy ISDN and DSL services is scheduled for completion in December, 1999, at a cost of $1.3 million.

in providing advanced services in rural Maine will be addressed by USF cost recovery.

II. Removal of Lincolnville's Cap is Consistent with Established Commission Policy

On September 9, 1999, the Commission issued its Cap Removal Order, addressing petitions for waiver and reconsideration of the USF conditions applied to 32 study areas. While the Commission noted its policy of monitoring USF impact on carriers involved in study area changes and capping carriers at some estimate of post-upgrade costs, the Commission correctly concluded that limiting the duration of those caps is appropriate and in the public interest.[7] Accordingly, the Commission granted petitioners' requests to lift the individual caps placed on their high cost loop support on a going-forward basis.[8] As of January 1, 2000, the high cost loop support for the 32 study areas will then be based upon the average cost of all their lines.

The Commission acknowledged that "caps of unlimited duration may hinder petitioners' incentive and ability to extend service to previously unserved areas, as well as to upgrade service to their existing customers."[9] The Commission also determined that "limiting the petitioners to the high cost loop support estimated in their original petitions, in perpetuity, is not necessary to accomplish the [Commission's] policies . . ." The Commission "concluded that . . . the individual caps placed on the carriers' high cost loop support have served their purpose . . ."[10] The Commission also recognized correctly that lifting the caps on petitioners' high cost support will increase the affected LECs' incentives and ability to extend service to previously unserved

---

7 Cap Removal Order at ¶ 9.

8 Cap Removal Order at ¶ 10.

9 Id.

10 Id.

areas and upgrade their networks."[11]

Lincolnville's conditions are effectively identical to those petitioners addressed in the Cap Removal Order. Therefore, removal of Lincolnville's individual USF cap is both warranted by, and consistent with, the Commission's conclusions and policy enunciated in the Cap Removal Order. Like the petitioners addressed in that order, Lincolnville purchased exchanges several years ago and, in conjunction with its request for study area waiver, provided a reasonable estimate of the costs to upgrade the subject facilities for the provision of basic telephone service to existing and new customers. Following the grant of study area waiver, Lincolnville proceeded to deploy service and upgrade the facilities according to its plans. Continuing to limit Lincolnville to the high cost loop support estimated in its original petition is not necessary to accomplish the Commission's policies. Further, continued application of the individual cap imposed in February of 1997 will hinder Lincolnville's incentive to continue to invest in advanced services networks and to upgrade existing service, and would jeopardize Lincolnville's ability to maintain reasonably comparable rates for modern services.

III. Conclusion

Consistent with the Commission's policy established in its Cap Removal Order, Lincolnville requests that the individual USF cap established by the Commission's Order be removed as of January 1, 2000. Lincolnville requests that the Commission lift the individual cap placed on its high cost loop support on a going-forward basis so that, as of January 1, 2000,

---

[11] Cap Removal Order at ¶ 10. See also Federal-State Joint Board on Universal Service: Promoting Development and Subscribership in Unserved Areas, Including Tribal and Insular Areas, Further Notice of Proposed Rulemaking, CC Docket No. 96-45, FCC 99-204 (rel. Sept. 3, 1999).

Lincolnville's high cost loop support payments will be based upon the average cost of all its lines. Adequate USF funding is necessary to allow Lincolnville to continue to maintain and upgrade its facilities for the provision of universal service to its rural Maine study area. Expedited grant of this request will serve the public interest by ensuring that Lincolnville receives adequate universal service funding to recover the costs of its investment and thereby meet its current and future service requirements.

Respectfully submitted,

Lincolnville Telephone Company
Tidewater Telecom, Inc.

By______________________

Stephen G. Kraskin
David Cosson
Margaret Nyland
Their Attorneys

Steven Watkins
Telecommunications Management Consultant

Kraskin, Lesse & Cosson, LLP
2120 L Street, NW
Suite 520
Washington, DC 20037
202/296-8890

November 2, 1999

CERTIFICATE OF SERVICE

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Request for Removal of Waiver Condition Consistent with Commission Policy" of Lincolnville Telephone Company, was served on this 2nd day of November, 1999 by hand delivery to the following parties:

Shelley Davis

Shelley Davis

Lawrence Strickling, Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW Room 5-C450
Washington, DC 20554

Lisa Zaina, Acting Deputy Bureau Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW, Room 5-B303
Washington, DC 20554

Irene Flannery, Chief
Accounting Policy Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW, Room 5-A426
Washington, DC 20554

Ms. Adrian Wright
Accounting Policy Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW, Room 5-B510
Washington, DC 20036